IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

R.P.No.1112 of 2006 IN O.P.NO.421 OF 1999(A)

AGAINST THE JUDGEMENT IN O.P.421/1999(A) DATED 21/11/2006

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REVIEW PETITIONER/PETITIONER:-

JANARDHANAN NAIR, PAZHANCHERIL,
HEREDITARY TRUSTEE, PATHIYARKULANGARA DEVI
TEMPLE, OORAKAM DESOM, CHAVAKKAD TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.P.N.KRISHNANKUTTY ACHAN(SR.)
SRI.K.MOHANAKANNA
SMT.A.R.PRAVITHA.

RESPONDENTS/RESPONDENTS:-

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1. THE COMMISSIONER, HR & CE (ADMN.) DEPARTMENT, CALICUT.

2. THE ASSISTANT COMMISSIONER,
(HR & CE (ADMN.) DEPARTMENT, PALAKKAD.

3. SR.PUTHIYEDATH NARAYANA MENON,
ANNAKARA, PATHIYARKULANGARA,CHAVAKKAD TALUK.

4. P. RADHAKRISHNAN NAIR,
PAZHANJERY HOUSE, P.O. PATHIYARKULANGARA
OORAKAM DESOM, CHAVAKKAD TALUK, THRISSUR DISTRICT.

5. P. VIJAYAN, S/O.PAZHANJERY AMMANIAMMA
PAZHANJERY HOUSE, P.O. PATHIYARKULANGARA,
OORAKAM, CHAVAKKAD TALUK, PALAKKAD DISTRICT.

R1 & R2 BY GOVERNMENT PLEADER SRI.T.B.HOOD.
ADV. BY ADV. SRI.RAJIT
ADV.SRI.P.DEEPAK
ADV.SRI.M.R.SABU

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:-

V.K.Bali,C.J. & S.Siri Jagan,J.

R.P.No.1112 of 2006 in
O.P.No.421 of 1999-A

Dated, this the 19th day of December, 2006

ORDER

V.K.Bali,C.J. (Oral)

The contention raised in support of the review application that no suit was competent under Section 62 of the Madras Hindu Religious and Charitable Endowments Act, 1951 and, therefore, we may review our order dated 21.11.2006 recorded in O.P.No.421 of 1999 does not appear to be correct. The provisions of Section 62 have already been quoted by us in the order sought to be reviewed. Any party aggrieved by any order passed under Section 57 as well, can file a suit. The dispute in the present case is with regard to appointment of a hereditary trustee. Section 57(b) of the Act reads as follows:

> "whether a trustee holds or held office as a hereditary trustee".

It is absolutely clear that the dispute is covered under Section 57 of the Act and, therefore, any order passed by the Commissioner

would be amenable to suit under Section 62 of the Act. The mere fact that the application was filed under Section 18 and the Commissioner passed orders under Section 18 would not make any difference. It may be mentioned that the provisions of law under which the application has been filed are not relevant and what is relevant is subject matter of the dispute. Before we may part with this order, we may mention that the petitioner's counsel himself stated that a civil suit is competent and would indeed seek his remedies by filing civil suit.

Dismissed.

V.K.Bali
Chief Justice

S.Siri Jagan
Judge

vku/-